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OFFICE OF PETITIONS

In re Application of :
Ian S. Zagon et al :
Application No. 09/431,843 : DECISION GRANTING PETITION
Filed: November 1, 1999 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 13038 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 4, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed July 16, 2001, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 17, 2001. A Notice of Abandonment was mailed on March 20, 2002.

The above-identified application has been abandoned for an extended period of time. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178; 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).

The petition is acceptable for satisfying the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Request for Continued Examination (RCE) and submission (amendment) under 37 CFR 1.114; (2) the petition fee; and (3) an acceptable statement of unintentional delay have been received. Accordingly, the reply to the final Office action of July 16, 2001 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-8680.

The application file is being forwarded to Technology Center AU 1647 for processing the RCE and for appropriate action on the concurrently filed amendment.


Frances Hicks

Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy